

Message Text

UNCLASSIFIED

PAGE 01 BONN 13457 01 OF 02 171901Z
ACTION LAB-04

INFO OCT-01 EUR-12 ISO-00 CIAE-00 COME-00 EB-08 INR-07
NSAE-00 SIL-01 TRSE-00 /033 W
-----070615 171916Z /46

R 171841Z AUG 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC 0731
INFO AMEMBASSY BRUSSELS
AMEMBASSY LONDON
AMEMBASSY PARIS
AMEMBASSY STOCKHOLM
AMEMBASSY THE HAGUE
USMISSION USBERLIN
AMCONSUL BREMEN
AMCONSUL DUSSELDORF
AMCONSUL FRANKFURT
AMCONSUL HAMBURG
AMCONSUL MUNICH
AMCONSUL STUTTGART

UNCLAS SECTION 01 OF 02 BONN 13457

E.O. 11652:N/A
TAGS: ELAB, GW
SUBJECT: DEPARTMENT OF LABOR INFORMATION REQUEST
ON ADVANCE NOTICE OF LAYOFFS

REF: STATE 175050 (NOTAL)

1. MEASURES REQUIRING EMPLOYERS TO GIVE ADVANCE NOTICE
OF LAYOFFS TO GOVERNMENT AGENCIES AND/OR WORKERS HAVE A
LONG HISTORY IN GERMANY WITH LEGISLATION GOING BACK
TO BEFORE THE WEIMAR REPUBLIC. ILLUSTRATIVE OF THIS
HISTORY IS THE 1926 LAW CONCERNING TERMINATION NOTICE
FOR WHITE COLLAR WORKERS (GESETZ UEBER DIE FRISTEN
FUER DIE KUENDIGUNG VON ANGESTELLTEN) WHICH IS STILL
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 BONN 13457 01 OF 02 171901Z

IN FORCE. IT WAS CONCEIVED IN A PERIOD OF ECONOMIC
RECESSION AND VIRTUALLY COINCIDED WITH THE BUILD-UP
OF A CENTRALIZED NATIONAL EMPLOYMENT SERVICE AND UN-
EMPLOYMENT INSURANCE SYSTEM.

2. AFTER WORLD WAR II, NOTICE OF LAYOFFS HAS BEEN
REGULATED UNDER DIFFERENT LAWS AND COLLECTIVE AGREE-

MENTS, SUCH AS:

A) MASS LAYOFFS: UNDER THE LAW TO PROTECT AGAINST DISMISSALS (KUENDIGUNGSSCHUTZGESETZ) OF AUGUST 10, 1951, WHICH STATES THAT EMPLOYEES OVER THE AGE OF 18 WITH 6 MONTHS OF UNINTERRUPTED SERVICE IN THE ENTERPRISE CANNOT BE GIVEN NOTICE OF TERMINATION IF SUCH ACTION MAY BE DEEMED "SOCIALLY UNJUSTIFIED." (AS DEFINED IN SECTION I OF THE LAW.) THE LAW ALSO REGULATES SO-CALLED MASS LAYOFFS (I.E., AT LEAST 10 PERCENT OR, IN LARGE ENTERPRISES WITH MORE THAN 500 EMPLOYEES, AT LEAST 50 EMPLOYEES WITHIN A PERIOD OF FOUR WEEKS), REQUIRING THE EMPLOYER TO NOTIFY THE COMPETENT EMPLOYMENT OFFICE. THE LAND (PROVINCE) EMPLOYMENT OFFICE MUST APPROVE ANY MASS LAYOFF.

B) BLUE COLLAR WORKERS: UNDER THE FIRST LAW TO AMEND DISMISSAL PROTECTION AND OTHER LEGAL PROVISIONS IN THE LABOR SECTOR (ERSTES ARBEITSRECHTSBEREINIGUNGSGESETZ) WHICH BECAME EFFECTIVE ON SEPTEMBER 1, 1969, BLUE COLLAR WORKERS HAVE A MINIMUM CLAIM TO 2 WEEKS' NOTICE OF TERMINATION. FURTHER CONSIDERATION IS GIVEN ACCORDING TO AGE AND SENIORITY AS FOLLOWS:
UNCLASSIFIED

UNCLASSIFIED

PAGE 03 BONN 13457 01 OF 02 171901Z

AFTER AGE 40 WITH 5 YEARS' SENIORITY, 1 MONTH'S NOTICE IS GIVEN; AFTER 10 YEARS SENIORITY, 2 MONTH'S NOTICE; AND AFTER 20 YEARS' SENIORITY, 3 MONTHS NOTICE. ALL NOTICES ARE GIVEN EFFECTIVE THE FIRST DAY OF THE NEXT QUARTER.

C) WHITE COLLAR WORKERS: UNDER THE ABOVE-MENTIONED 1926 LAW CONCERNING TERMINATION NOTICE FOR WHITE COLLAR WORKERS, THE PERIOD OF NOTICE WAS ESTABLISHED AT 3 MONTHS AFTER 5 YEARS' SENIORITY, 4 MONTHS AFTER 8 YEARS, 5 MONTHS AFTER 10 YEARS, AND 6 MONTHS AFTER 12 YEARS. NOTICE MUST BE GIVEN TO THE END OF A QUARTER. YEARS OF EMPLOYMENT BEFORE AGE 25 ARE NOT COUNTED FOR COMPUTING SENIORITY.

3. UNDER THE 1952 INDUSTRIAL RELATIONS LAW (BETRIEBSVERFASSUNGSGESETZ), AS AMENDED IN 1972, EMPLOYERS ARE REQUESTED TO OBTAIN APPROVAL BY THE WORKS COUNCIL (BETRIEBSRAT) BEFORE UNDERTAKING INDIVIDUAL OR MASS

LAYOFFS. FURTHERMORE, THE LAW ALSO REQUIRES MANAGEMENT TO WORK OUT A "SOCIAL PLAN" TOGETHER WITH THE WORKS COUNCIL IN THE CASE OF A TRANSFER OR SHUT-DOWN

UNCLASSIFIED

NNN

UNCLASSIFIED

PAGE 01 BONN 13457 02 OF 02 171904Z
ACTION LAB-04

INFO OCT-01 EUR-12 ISO-00 TRSE-00 CIAE-00 COME-00
EB-08 INR-07 NSAE-00 SIL-01 /033 W
-----070655 171914Z /46

R 171841Z AUG 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC 0732
INFO AMEMBASSY BRUSSELS
AMEMBASSY LONDON
AMEMBASSY PARIS
AMEMBASSY STOCKHOLM
AMEMBASSY THE HAGUE
USMISSION USBERLIN
AMCONSUL BREMEN
AMCONSUL DUSSELDORF
AMCONSUL FRANKFURT
AMCONSUL HAMBURG
AMCONSUL MUNICH
AMCONSUL STUTTGART

UNCLAS SECTION 02 OF 02 BONN 13457

OF PLANTS OR PLANT DEPARTMENTS OR A MERGER OF FIRMS LEADING TO A LOSS OF JOBS. THE PURPOSE OF SUCH PLANS IS TO EXTEND THE ACTION OF LAYOFFS OVER A LONGER PERIOD GOING BEYOND THOSE PERIODS OF ADVANCE NOTICE AS STIPULATED UNDER LAWS OR COLLECTIVE AGREEMENTS, THUS MAKING IT EASIER FOR THE FEDERAL EMPLOYMENT SERVICE AND THE LOCAL EMPLOYMENT OFFICE TO FIND NEW JOBS FOR THE WORKERS AFFECTED BY THE LAYOFFS. THESE PLANS ALSO GENERALLY PROVIDE FOR SEPARATION ALLOWANCES AND CONTAIN SPECIAL PROTECTIVE PROVISIONS FOR SO-CALLED HARD-TO-EMPLOY GROUPS (SEVERELY DISABLED AND OLDER WORKERS).

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 BONN 13457 02 OF 02 171904Z

4. COLLECTIVE BARGAINING AGREEMENTS FREQUENTLY PROVIDE FOR MORE FAVORABLE REGULATIONS, OR EXTENDED PERIODS OF ADVANCE NOTICE, THAN THOSE REGULATED UNDER LEGISLATION. THIS IS PARTICULARLY TRUE IN THE METAL AND CHEMICAL INDUSTRIES AND IN THE PUBLIC SERVICES SECTOR. IN THE PUBLIC SECTOR, BLUE AND WHITE COLLAR WORKERS OVER 40 YEARS WITH MORE THAN 15 YEARS' SENIORITY CANNOT BE DISMISSED ALTHOUGH THEY MAY HAVE TO ACCEPT LESS DESIRABLE POSITIONS IN CASE OF A REDUCTION IN FORCE.

5. THE QUESTIONS POSED IN PARA 2, REFTEL, ARE ANSWERED AS FOLLOWS:

(1) COSTS AND BENEFITS: NEITHER EMPLOYERS NOR THE LABOR MINISTRY CAN PROVIDE ANY ESTIMATES ON THE COSTS OF NOTICE REQUIREMENTS. ACTUALLY, THESE MEASURES ARE DEEPLY ROOTED IN THE "SOCIAL NETWORK" WHICH HAS A LONG HISTORY IN GERMANY.

(2) THERE ARE NO STATISTICS AVAILABLE TO VERIFY WHETHER WORKERS HAVE BEEN ABLE TO OBTAIN NEW JOBS SOONER BECAUSE OF ADVANCE NOTICE OF IMPENDING LAYOFFS. WE WOULD SPECULATE, HOWEVER, THAT THIS HAS BEEN THE CASE WHEN THE SKILLS OF THE WORKER INVOLVED ARE IN DEMAND AND JOBS ARE AVAILABLE, SINCE THE EMPLOYMENT OFFICE IS THEREBY GIVEN FOUR WEEKS OR MORE TO MATCH THE SKILL WITH THE JOB. GOVERNMENT, MANAGEMENT AND UNIONS GENERALLY AGREE THAT THE MEASURES ON ADVANCE NOTICE OF LAYOFFS HAVE STOOD THE TEST OF

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 BONN 13457 02 OF 02 171904Z

TIME.

(3) EMPLOYERS HAVE ACCEPTED ADVANCE NOTICE OF LAYOFFS AS PART OF THE FRG'S LONG-STANDING SOCIAL TRADITION. GENERALLY, THERE HAVE BEEN NO DIFFICULTIES WITH COMPLIANCE.

(4) MAJOR COMPANIES HAVE NOT RESISTED GIVING THE REQUIRED NOTICE. UNIONS HAVE CHARGED,

HOWEVER, THAT DURING THE 1974/75 RECESSION, SOME MAJOR COMPANIES HAVE OCCASIONALLY AVOIDED THE ADVANCE NOTICE OF MASS LAYOFFS TO THE COMPETENT LOCAL EMPLOYMENT OFFICE BY RESTRICTING THE NUMBER OF WORKERS LAID OFF IN A FOUR-WEEK PERIOD TO LESS THAN 50, E.G. 40-49, AND REPEATING THIS ACTION FOR A NUMBER OF MONTHS IN A ROW. SUCH OCCURRENCES, HOWEVER, HAVE BEEN THE EXCEPTION.

5. COMMENT: BOTH GOVERNMENT AND UNIONS VIEW SUCH LEGISLATION ON LAYOFFS AS AN IMPORTANT SOCIAL MEASURE TO PROTECT THE INDIVIDUAL WORKER. EMPLOYERS HAVE RECONCILED THEMSELVES TO THIS FACET OF GERMAN SOCIAL TRADITION. NEVERTHELESS, SOME ECONOMISTS CONTEND THAT THESE LEGISLATIVE RESTRICTIONS (AS WELL AS HIGH LABOR COSTS) ARE PARTIALLY RESPONSIBLE FOR RELUCTANCE ON THE PART OF EMPLOYERS TO HIRE NEW WORKERS AND THEREBY IMPROVE THE FRG'S EMPLOYMENT PICTURE. STOESEL

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LABOR, INFORMATION EXCHANGE, EMPLOYMENT
Control Number: n/a
Copy: SINGLE
Sent Date: 17-Aug-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977BONN13457
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770297-0326
Format: TEL
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770855/aaaabtut.tel
Line Count: 243
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: a7346b59-c288-dd11-92da-001cc4696bcc
Office: ACTION LAB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 77 STATE 175050
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 03-Jan-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1581801
Secure: OPEN
Status: NATIVE
Subject: DEPARTMENT OF LABOR INFORMATION REQUEST ON ADVANCE NOTICE OF LAYOFFS
TAGS: ELAB, GE, US
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/a7346b59-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009